

*Austria-Hungary*¹

RIGHTS, PRIVILEGES, AND IMMUNITIES OF CONSULAR OFFICERS

Convention signed at Washington July 11, 1870

Senate advice and consent to ratification December 9, 1870

Ratified by the President of the United States December 19, 1870

Ratified by Austria-Hungary May 2, 1871

*Ratifications exchanged at Washington June 26, 1871*²

Entered into force June 26, 1871

Proclaimed by the President of the United States June 29, 1871

*Articles XI and XII abrogated by the United States July 1, 1916, in
accordance with the Seamen's Act of March 4, 1915*³

*Not revived after World War I*⁴

17 Stat. 821; Treaty Series 11

The President of the United States of America, and His Majesty the Emperor of Austria, King of Bohemia, &c. and Apostolic King of Hungary, animated by the desire to define in a comprehensive and precise manner the reciprocal rights, privileges and immunities of the Consuls-General, Consuls, Vice Consuls and Consular Agents (their Chancellors and Secretaries) of the United States of America and of the Austro-Hungarian Monarchy, and to determine their duties and their respective sphere of action, have agreed upon the conclusion of a Consular Convention, and for that purpose have appointed their respective Plenipotentiaries, namely:

¹ See also AUSTRIA and HUNGARY.

² A Senate resolution of May 12, 1871, consented to a three-month extension of the time allowed by art. XVII for exchange of ratifications.

³ 38 Stat. 1164.

⁴ See art. 241 of Treaty of St. Germain-en-Laye signed Sept. 10, 1919 (*ante*, p. 277), and art. 224 of Treaty of Trianon signed June 4, 1920 (*post*, HUNGARY), the benefits of which were secured to the United States by the treaties establishing friendly relations dated Aug. 24, 1921 (TS 659, *ante*, p. 215), and Aug. 29, 1921 (TS 660, *post*, HUNGARY).

The President of the United States of America, Hamilton Fish, Secretary of State of the United States.

And His Majesty the Emperor of Austria, Apostolic King of Hungary, Charles, Baron von Lederer, Knight of the Imperial and Royal Order of Leopold, and His Majesty's Envoy Extraordinary and Minister Plenipotentiary in the United States of America, who after communicating to each other their full powers, found in good and due form, have agreed upon the following Articles:

ARTICLE I

Each of the High Contracting Parties shall be at liberty to establish Consuls-General, Consuls, Vice Consuls or Consular Agents at the ports and places of trade of the other party, except those where it may not be convenient to recognize such officers, but this exception shall not apply to one of the High Contracting Parties without also applying to every other Power.

Consuls-General, Consuls and other Consular officers appointed and taking office according to the provisions of this Article, in one or the other of the two countries, shall be free to exercise the right accorded them by the present Convention throughout the whole of the district for which they may be respectively appointed.

The said functionaries shall be admitted and recognized respectively upon presenting their credentials in accordance with the rules and formalities established in their respective countries.

The exequatur required for the free exercise of their official duties shall be delivered to them free of charge; and upon exhibiting such exequatur they shall be admitted at once and without interference by the authorities, federal or State, judicial or Executive, of the ports, cities and places of their residence and district, to the enjoyment of the prerogatives reciprocally granted.

ARTICLE II

The Consuls-General, Consuls, Vice Consuls, and Consular Agents, their Chancellors and other Consular Officers, if they are citizens of the State which appoints them, shall be exempt from military billetings, from service in the military or the national guard, and other duties of the same nature and from all direct and personal taxation, whether federal, State or municipal, provided they be not owners of real estate and neither carry on trade nor any industrial business.

If, however, they are not citizens of the State which appoints them, or if they are citizens of the State in which they reside, or if they own property, or engage in any business there that is taxed under any laws of the country, then they shall be subject to the same taxes, charges, and assessments as other private individuals.

They shall, moreover, enjoy personal immunities, except for acts regarded as crimes by the laws of the country in which they reside.

If they are engaged in commerce, personal detention can be resorted to in their case, only for commercial liabilities and then, in accordance only with general laws applicable to all persons alike.

ARTICLE III

Consuls-General, Consuls, and their Chancellors, Vice Consuls, and Consular officers, if citizens of the country which appoints them, shall not be summoned to appear as witnesses before a Court of Justice, except when pursuant to law the testimony of a Consul may be necessary for the defence of a person charged with crime.

In other cases the local Court, when it deems the testimony of a Consul necessary shall either go to his dwelling to have the testimony taken orally, or shall send there a competent officer to reduce it to writing, or shall ask of him a written declaration.

ARTICLE IV

Consuls-General, Consuls, Vice Consuls and Consular Agents shall be at liberty to place over the chief entrance of their respective offices, the arms of their nation, with the inscription: "Consulate General", "Consulate", "Vice Consulate" or "Consular Agency" as may be.

They shall also be at liberty to hoist the flag of their country on the Consular edifice, except when they reside in a city where the Legation of their Government may be established.

They shall also be at liberty to hoist their flag on board the vessel employed by them in port for the discharge of their duty.

ARTICLE V

The Consular Archives shall be at all times inviolable and under no pretence whatever shall the local authorities be allowed to examine or seize the papers forming part of them.

ARTICLE VI

In the event of incapacity, absence or death of Consuls-General, Consuls, Vice Consuls, their Consular Pupils, Chancellors or Secretaries, whose official character may have been previously made known to the respective authorities in the United States or in the Austro-Hungarian Empire, shall be admitted at once to the temporary exercise of the consular functions, and they shall for the duration of it, enjoy all the immunities, rights, and privileges conferred upon them by this Convention.

ARTICLE VII

Consuls-General and Consuls, shall have the power to appoint Vice Consuls and Consular Agents, in the cities, ports, and towns within their Consular districts, subject however to the approbation of the Government of the country where they reside.

These Vice Consuls and Consular Agents may be selected indiscriminately from among citizens of the two countries or from foreigners and they shall be furnished with a Commission issued by the appointing Consul, under whose orders they are to be placed.

They shall enjoy the privileges and liberties stipulated in this Convention. To Vice Consuls and to Consular Agents who are not citizens of the State which appoints them, the privileges and immunities specified in Article II. shall not extend.

ARTICLE VIII

Consuls-General, Consuls, Vice Consuls, or Consular Agents of the two countries may, in the exercise of their duties apply to the authorities within their district, whether federal or local, judicial or executive, in the event of any infraction of the Treaties and Conventions between the two countries, also for the purpose of protecting the rights of their countrymen.

Should the said authorities fail to take due notice of their application, they shall be at liberty in the absence of any diplomatic representative of their country to apply to the Government of the country where they reside.

ARTICLE IX

Consuls-General, Consuls, Vice Consuls or Consular Agents of the two countries, also their Chancellors, shall have the right to take at their office, at the residence of the parties, or on board ship the depositions of the Captains and crews of vessels of their own nation,—of passengers on board of them, of merchants, or any other citizens of their own country.

They shall have the power also to receive and verify conformably to the laws and regulations of their country,

1st Wills and bequests of their countrymen, and all such acts and contracts between their countrymen as are intended to be drawn up in an authentic form, and verified.

2nd Any and all acts of agreement entered upon between citizens of their own country and inhabitants of the country where they reside.

All such acts of agreement and other instruments, and also copies thereof, when duly authenticated by such Consul-General, Consul, Vice Consul or Consular Agent under his official seals, shall be received in Courts of Justice as legal documents or as authenticated copies, as the case may be, and shall have the same force and effect, as if drawn up by competent public officers of one or the other of the two countries.

Consuls-General, Consuls, Vice Consuls or Consular Agents of the respective countries shall have the power to translate and legalize all documents issued by the authorities or functionaries of their own country, and such papers shall have the same force and effect in the country where the aforesaid officers reside, as if drawn up by sworn interpreters.

ARTICLE X

Consuls-General, Consuls, Vice Consuls or Consular Agents shall be at liberty to go on board the vessels of their nation admitted to entry, either in person, or by proxy and to examine the Captain and crew, to look into the register of the ship, to receive declarations with reference to their voyage, their destination, and the incidents of the voyage, also to draw up manifests, lists of freight, to assist in despatching their vessels and finally to accompany the said Captains or crews before the Courts and before the administrative authorities, in order to act as their interpreters or Agents in their business transactions, or applications of any kind.

The Judicial authorities and Custom-House officials shall in no case proceed to the examination or search of merchant vessels, without previous notice to the Consular authority of the nation to which the said vessels belong, in order to enable them to be present.

They shall also give due notice to Consuls, Vice Consuls or Consular Agents, in order to enable them to be present at any depositions or statements to be made in Courts of law, or before local magistrates by Captains or persons composing the crew, thus to prevent errors or false interpretations which might impede the correct administration of justice.

The notice to Consuls, Vice Consuls or Consular Agents shall name the hour fixed for such proceedings, and upon the nonappearance of the said officers or their representatives, the case shall be proceeded with in their absence.

ARTICLE XI ⁵

Consuls, Vice Consuls or Consular Agents shall have exclusive charge of the internal order of the merchant vessels of their nation. They shall have therefore the exclusive power to take cognizance of and to settle all differences which may arise at sea or in port between Captains, officers and crews in reference to wages and the execution of mutual contracts, subject in each case to the laws of their own nation.

The local authorities shall in no way interfere except in cases where the differences on board ship are of a nature to disturb the peace and public order in port or on shore, or when persons other than the officers and crew of the vessel are parties to the disturbance, except as aforesaid the local authorities shall confine themselves to the rendering of forcible assistance if required

⁵ Abrogated by the United States July 1, 1916, in accordance with Seamen's Act of Mar. 4, 1915 (38 Stat. 1164).

by the Consuls, Vice Consuls or Consular Agents, and shall cause the arrest, temporary imprisonment and removal on board his own vessel of every person whose name is found on the muster rolls or register of the ship or list of the crew.

ARTICLE XII ⁵

Consuls-General, Consuls, Vice Consuls or Consular Agents shall have the power to cause the arrest of all sailors or all other persons belonging to the crews of vessels of their nation who may be guilty of having deserted on the respective territories of the High Contracting Powers, and to have them sent on board or back to their native country.

To that end they shall make a written application to the competent local authority, supporting it by the exhibition of the ship's register and list of the crew, or else, should the vessel have sailed previously, by producing an authenticated copy of these documents showing that the persons claimed really do belong to the ship's crew.

Upon such request the surrender of the deserter shall not be refused. Every aid and assistance shall moreover be granted to the said Consular authorities for the detection and arrest of deserters, and the latter shall be taken to the prisons of the country and there detained at the request and expense of the Consular authority until there may be an opportunity for sending them away.

The duration of this imprisonment shall not exceed the term of three months, at the expiration of which time, and upon three days notice to the Consul, the prisoner shall be set free and he shall not be liable to re-arrest for the same cause.

Should, however, the deserter have committed on shore indictable offence, the local authorities shall be free to postpone his extradition until due sentence shall have been passed and executed.

The High Contracting Parties agree that seamen, or other individuals forming part of the ship's crew, who are citizens of the country in which the desertion took place, shall not be affected by the provisions of this Article.

ARTICLE XIII

In all cases where no other agreement to the contrary exists between owners, freighters, and insurers, all damages suffered at sea by the vessels of the two countries, whether they enter the respective ports voluntarily or by stress of weather, shall be settled by the Consuls-General, Consuls, Vice Consuls or Consular Agents of their respective nation, provided no interests of citizens of the country where the said functionaries reside, nor of citizens of a third power are concerned.

In that case, and in the absence of a friendly compromise between all parties interested, the adjudication shall take place under supervision of the local authorities.

ARTICLE XIV

In the event of a vessel belonging to the Government or owned by a citizen of one of the two Contracting States, being wrecked or cast on shore upon the coast of the other, the local authorities shall inform the Consuls-General, Consuls, Vice Consuls, or Consular Agents of the district of the occurrence, or if such Consular Agency does not exist, they shall communicate with the Consul-General, Consul, Vice Consul or Consular Agent of the nearest district.

All proceedings relative to the salvage of American vessels wrecked or cast on shore in Austro-Hungarian waters, shall be directed by the United States Consuls-General, Consuls, Vice Consuls or Consular Agents; also all proceedings relative to the salvage of Austro-Hungarian vessels wrecked or cast on shore in American waters, shall be directed by Austro-Hungarian Consuls-General, Consuls, Vice Consuls or Consular Agents.

An interference of the local authorities in the two countries shall take place for the purpose only of assisting the consular authorities in maintaining order and protecting the rights of salvors not belonging to the crew, also for enforcing the regulations relative to the import or export of the merchandise saved.

In the absence and until the arrival of the Consuls-General, Consuls, Vice Consuls or Consular Agents or their duly appointed delegates, the local authorities shall take all the necessary measures for the protection of persons and preservation of the property saved from the wreck.

No charges shall be made for the interference of the local authorities in such cases, except for expenses incurred through salvage and the preservation of property saved, also for those expenses which, under similar circumstances, vessels belonging to the country where the wreck happens would have to incur.

In case of a doubt concerning the nationality of the wrecks, the local authorities shall have exclusively the management and execution of the provisions laid down in the present Article.

The High Contracting Parties also agree that all merchandise and goods not destined for consumption in the country in which the wreck takes place shall be free of all duties.

ARTICLE XV

Consuls-General, Consuls, Vice Consuls and Consular Agents also Consular Pupils, Chancellors and Consular Officers shall enjoy in the two countries all the liberties, prerogatives, immunities and privileges granted to functionaries of the same class of the most favored nation.

ARTICLE XVI

In case of the death of a citizen of the United States in the Austrian Hungarian Monarchy, or of a citizen of the Austrian Hungarian Monarchy in

the United States, without having any known heirs or testamentary executors by him appointed, the competent local authorities shall inform the Consuls or Consular Agents of the State to which the deceased belonged, of the circumstances, in order that the necessary information may be immediately forwarded to the parties interested.

ARTICLE XVII

The present Convention shall remain in force for the space of ten years from the date of the exchange of the ratifications, which shall be made in conformity with the respective Constitutions of the two countries, and exchanged at Washington within the period of ten (10.) months or sooner if possible.⁶

In case neither of the Contracting Parties gives notice before the expiration of the said term of his intention not to renew this Convention, it shall remain in force a year longer, and so on, from year to year, until the expiration of a year from the day, on which one of the parties shall have given such notice.

In testimony whereof, the respective Plenipotentiaries have signed this Convention and hereunto affixed their respective seals.

Done, in duplicate, at Washington, the eleventh day of July, in the year of our Lord one thousand eight hundred and seventy.

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| HAMILTON FISH | [SEAL] |
| LEDERER | [SEAL] |

⁶ A Senate resolution of May 12, 1871, consented to a three-month extension of time for exchange of ratifications.